

FACT SHEET Final Rule on Section 503 of the Rehabilitation Act of 1973

Background

On August 27, 2013, the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) announced a Final Rule that makes changes to the regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), at 41 CFR Part 60-741. You can view the Final Rule on OFCCP's Web site at www.dol.gov/ofccp/503Rule or on the *Federal Register* site, when published.

Section 503 prohibits employment discrimination against individuals based on disability by federal contractors and subcontractors. Section 503 also requires that federal contractors and subcontractors take affirmative action to recruit, employ, train, and promote qualified individuals with disabilities.

Need for the Final Rule

The framework articulating contractors' Section 503 responsibilities has been in place since the 1970's. However, both the unemployment rate of working age individuals with disabilities and the percentage of working age individuals with disabilities that are not in the labor force remain significantly higher than for those without disabilities. A substantial disparity in the unemployment rate of individuals with disabilities continues to persist despite years of technological advances that have made it possible for people with disabilities, sometimes severe, to apply for and successfully perform a broad array of jobs.

- Bureau of Labor Statistics (BLS) data show a workforce participation rate of 31.6% for working age people with disabilities in 2012, compared with 76.5% of working age individuals without such disabilities.¹
- BLS data indicate that the unemployment rate for working age people with disabilities in 2012 was 15%, compared with an unemployment rate of 8% for working age individuals without disabilities.²
- The median household income for "householders" with a disability in 2011, aged 18 to 64, was \$25,420, compared with a median income of \$59,411 for households with a householder who did not report a disability.³

¹ Bureau of Labor Statistics, Table A. Employment status of the civilian noninstitutional population by disability status and age, 2011 and 2012 annual averages, available online at <http://www.bls.gov/news.release/disabl.a.htm> (last accessed July 5, 2013). The participation rate is the percentage of working age people (ages 16 to 64) who are employed, and those who are unemployed but looking for work. For individuals 16 years and older the participation rate for persons with disabilities is 20.6 percent compared to 69.4 percent.

² Id.

³ *Income, Poverty and Health Insurance Coverage in the United States: 2011*, Current Population Reports, issued September 2012, <http://www.census.gov/prod/2012pubs/p60-243.pdf> (last accessed July 8, 2013), p. 10. The "householder" is typically the head of a household. Only one person per household is designated the "householder."

- The poverty rate for individuals with disabilities, age 18 to 64, was 28.8 percent, compared to 12.5 percent for individuals without a disability.⁴

The new Section 503 regulations are an important tool for reducing barriers to equal employment opportunity for individuals with disabilities, and addressing income inequality and poverty.

In addition, the Final Rule implements changes necessitated by the passage of the ADA Amendments Act (ADAAA) of 2008. The ADAAA amends the definition of disability in Section 503 to the same extent that it amends the ADA, and became effective on January 1, 2009.

Highlights of the Final Rule

The Final Rule introduces a variety of changes to the Section 503 regulations. Some of these changes revise the nondiscrimination provisions to incorporate the requirements of the ADAAA. Others are designed to strengthen the affirmative action provisions. The Final Rule:

- Establishes, for the first time, a 7% utilization goal for individuals with disabilities. This utilization goal, applied at the job group level, is not to be used as a quota or a ceiling that limits or restricts the employment of individuals with disabilities. Instead, the goal is a management tool that informs decision-making and provides real accountability. Failing to meet the disability utilization goal is not a violation of the regulation and it will not lead to a fine, penalty or sanction.
- Requires contractors to invite applicants to voluntarily self-identify as an individual with a disability at the pre-offer stage of the hiring process, in addition to the existing requirement that contractors invite applicants to voluntarily self-identify after receiving a job offer. This data collection should provide contractors with useful information about the extent to which their outreach and recruitment efforts are effectively reaching people with disabilities.
- Requires contractors to invite incumbent employees to voluntarily self-identify on a regular basis. The status of employees may change and a regular invitation to self-identify provides employees a way to self-identify for the first time, or to change their previously reported status. Providing a regular invitation should contribute to increased self-identification rates. Improving data collection is important to assessing employment practices.
- Requires contractors to maintain several quantitative measurements and comparisons for the number of individuals with disabilities who apply for jobs and the number of individuals with disabilities they hire in order to create greater accountability for employment decisions and practices. Having this data will enable contractors and OFCCP to evaluate the effectiveness of contractors' outreach and recruitment efforts, and examine hiring and selection processes related to individuals with disabilities.

⁴ Id.

- Requires prime contractors to include specific, mandated language in their subcontracts in order to provide knowledge and increase compliance by alerting subcontractors to their responsibilities as federal contractors.
- Implements changes necessitated by the passage of the ADA Amendments Act (ADAAA) of 2008 by revising the definition of “disability” and certain nondiscrimination provisions of the implementing regulations.

For more information, please go to www.dol.gov/ofccp.